

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2004 JUL -9 P 12:53

WILLIAM R. MITCHELL
Petitioner,

v.

LUIS SPENCER
Respondent.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No. 04-10844-MLW

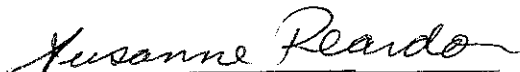
**RESPONDENT'S SUPPLEMENTAL APPENDIX TO HIS MOTION
TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**

Now comes the respondent in the above-captioned case and hereby files the following documents in support of his motion to dismiss the petition for writ of habeas corpus:

State court docket sheets pp. 1-7

Respectfully submitted,

THOMAS F. REILLY
Attorney General

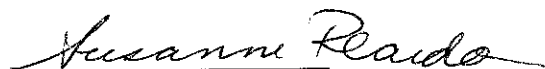


Susanne G. Reardon, BBO # 561669
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, ext. 2832

Date: July 8, 2004

CERTIFICATE OF SERVICE

I hereby certify that true copies of the above documents were served on William R. Mitchell, pro se, P.O. Box 43, Norfolk, MA 02056 by first class mail, postage prepaid, on July 8, 2004.



Susanne G. Reardon

BBO # 561669

Assistant Attorney General

Criminal Bureau

One Ashburton Place

Boston, Massachusetts 02108

(617) 727-2200, ext. 2832

1991		
Nov. 20	41	Upon presentation, F. P. Marchette, Esq. Allowed to withdraw. (Brady, J.)
Nov. 21	42	Notice of Assignment of Counsel 0071160-C.P.C.S. appointed. (Brady, J.)
Nov. 21	43	Transcript forms sent to F. P. Marchetti, Esq.
Dec. 20	44	Victim/Witness Assessment \$50.00 Paid.
1992		
Apr. 17	45	David Hoose has been assigned to case, notice from C.P.C.S, Boston.
May 12	46	Notice to M. Parziale to prepare transcripts, (Nov. 4 to Nov. 14, 1991)
May 12	47	Certificate of Assistant Clerk. to prepare transcripts.
Nov 5	48	Transcripts received (3 volumes, Nov. 4, 6, 7, 1991) from K. Gordon, Stenographer
Nov 6	49	Second notice to Marie Parziale to prepare transcripts.
1993	50	Certificate of Assistant Clerk to prepare transcripts.
Feb. 18	51	Transcripts received (4 volumes Nov. 5, 12, 13, 14, 1991) from M. Parziale, stenographer
Mar. 18	52	Certificate Re; Receipt of Transcripts, from D. Duncan, A.D.A. (7 volumes)
May 12	53	Certificate Re; Receipt of Transcripts, from David Hoose, Esq., (7 volumes)
May 27	54	Notice of assignment of Counsel C 1062312-6 John Thompson, Esq., appointed.
Jun. 4	55	Notice of appearance, John M. Thompson Esq.
Aug 12	56	Notice of Assembly of Records and Transcripts transmitted to the Appeals Court.
1995		
March 29	57	Rescript dated February 28, 1995 from the Appeals Court---Ordered---Judgment affirmed.
1997		
Jan. 21	58	Defendant's Motion for A New Trial, Pursuant to Mass. R. Crim. P. Rule 30 (b) ¶
Aug. 25	59	Affidavit and Memorandum filed by Pro Se. Copy to Brady, J. on 7/23/97
Oct 22	60	Memorandum of Decision and Order on Defendant's Motion for a New Trial DENIED.
Oct 22	61	Patrick Brady, J.
23	62	Defendant's Motion for Leave to Late File Notice of Appeal filed by Pro Se.
Oct 31	63	Copy to Bohn, J. on 10/22/97
Nov 19	64	Motion 58 Allowed. Bohn, J. Copy to Pro Se on 10/27/97
24	65	Defendant's Notice of Appeal filed. Copy to R. Murphy Asst Clerk on 10/27/97
Dec 10	66	Notice of Assembly of Record to the Appeals Court re: Denial of Motion for a New Trial
Dec 10	67	Defendant's Motion for Reconsideration, Memorandum filed by pro se.
Dec 10	68	Copy to Brady, J. on 11/20/97
Dec 10	69	Motion 61 upon review denied. Brady, J. See Endorsement. Copy to W. Mitchell pro se on 12/3/97.
Dec 10	70	Defendant's Notice of Appeal filed. Copy to Brady, J. on 12/24/97

COMMONWEALTH
OF
MASSACHUSETTS
ESSEX, SS.
SUPERIOR COURT
CRIMINAL
DOCKET

COMMONWEALTH VS. WILLIAM R. MITCHELL

NO. CR. 17367
PAGE 3

1998		
Apr 2	63	Certificate of Service, and Affidavit filed.
	64	Defendant's Motion for Reconsideration filed.
	65	Defendant's Amended Motion for a new trial, pursuant to Mass. R. Crim. P. Rule 30 (b) filed.
	66	Defendant's Renewed Motion for an Evidentiary Hearing filed.
	67	Defendant's Renewed Motion for Appointment of counsel filed.
	68	Defendant's Affidavit in support of Amended Motion for a New Trial, pursuant to Mass. R. Crim. P. Rule 30 (b)
	69	Defendant's Memorandum of Law in Support of Affidavit and Amended Motion for a New Trial filed.
Jul 2		Pleadings #63 through 69 sent to Patrick Brady J. on 6/15/98
		Motion #64 upon review, denied. Patrick Brady J. Copy to pro se on 7/8/98
		Motion #65 upon review, denied. Patrick Brady J. Copy to pro se on 7/8/98
		Motion #66 Denied. Patrick Brady J. Copy to pro se on 7/8/98
Jul 30		Motion #67 Denied. Patrick Brady J. Copy to pro se on 7/8/98
		Defendant's Notice of Appeal filed by pro se. Copy to Patrick
Sept 14	71	Brady J. on 8/4/98.
		Notice from the Appeals Court re: Stay is vacated. The appeal from the denial of appellant's motion for a New trial is consolidated with pending appeal without necessity of further assembly of the record. The Appellant's consolidated brief and appendix is to be filed with the Appeals Court on or before 10/13/98.
Oct 29	72	Copies of updated trial court docket sheets mailed to Appeals Court.
2000		Notice from the Appeals Court dated 10/28/98 re: Motion to file oversize brief - DENIED (Jacobs, J.).
MAY 25	73	REQUEST FOR AN AFFIDAVIT OF INDIGENCY FILED. COPY OF FORM MAILED TO DEFENDANT ON JUNE 1, 2000.
June 12	74	Affidavit of Indigency and Request for Waiver, Substitution or State Payment of Fees and Costs filed.
Sept. 18		SEE COMPUTER

**Commonwealth of Massachusetts
ESSEX SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Mitchell, William R

Details for Docket: ESCR1990-17367

Case Information

Docket Number:	ESCR1990-17367	Caption:	Commonwealth v Mitchell William R
Entry Date:	05/23/1990	Case Status:	CtRm 1 (Salem)
Status Date:	04/14/2003	Session:	Disposed (appeal denied)
Lead Case:	NA	Deadline Status:	
Trial Deadline:		Jury Trial:	NO

Parties Involved

2 Parties Involved in Docket: ESCR1990-17367

Party Involved:		Role:	Defendant
Last Name:	Mitchell	First Name:	William R
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Attorneys Involved

2 Attorneys Involved for Docket: ESCR1990-17367

3

**Attorney
Involved:**

Last Name: Fielding
Address: PO Box 519
City: Greenfield
Zip Code: 01302
Telephone: 413-773-5494
Fascimile: 413-773-5494

Firm Name:

First Name: Jean M
Address:
State: MA
Zip Ext:
Tel Ext:
Representing: Mitchell, William R (Defendant)

**Attorney
Involved:**

Last Name: Schubert
Address: 1365 Main Street
City: Springfield
Zip Code: 01103
Telephone: 413-746-1313
Fascimile: 413-746-3102

Firm Name:

First Name: Greg T
Address:
State: MA
Zip Ext:
Tel Ext:
Representing: Mitchell, William R (Defendant)

Calendar Events

2 Calendar Events for Docket: ESCR1990-17367

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	06/25/2001	09:00	Hearing: Motion	1	Event not held--scheduled for another date
2	07/20/2001	09:00	Hearing: Motion	1	Event held as scheduled

Full Docket Entries

86 Docket Entries for Docket: ESCR1990-17367

Entry Date: Paper No: Docket Entry:

05/23/1990 1 Indictment returned

11/14/1991 Re Offense #1: Guilty Verdict

09/18/2000 75 Motion for new trial by Deft, Affidavit and Memorandum in Support of

09/18/2000 75 filed.

09/18/2000 76 Motion by Deft: for Evidentiary Hearing.

09/18/2000 77 Motion for appointment of counsel filed.

10/24/2000 Pleading #74-Denied without prejudice: Applicant has failed to state

4

10/24/2000		reasons why he seeks DNA testing and/or why such testing is
10/24/2000		reasonably necessary to assure him as effective an appeal or
10/24/2000		post-conviction proceeding as he would have if he were financially
10/24/2000		able to pay for such testing. See G.L. C. 261 Sec 27C(4) Commonwealth
10/24/2000		v. Lockley. Notice sent 10/26/00
10/27/2000	78	ORDERED: Commonwealth may have until 11/29/00, to file a responsive
10/27/2000	78	brief in opposition to defendant's motion for new trial. Counsel
10/27/2000	78	should filed the original brief with the Essex Clerk's Office and
10/27/2000	78	send a working copy to me to the court which I am then sitting.
10/27/2000	78	(Patrick,F. Brady,J.) Copy to Pro-See and E.Graddon, ADA on 11/01/00
11/06/2000	79	Motion by Deft: Motion for Reconsideration filed. Copy of Pleadings
11/06/2000	79	#'s 74 and 75 sent to Rup,J., in Hampshire County.
11/14/2000		Motion #79 At the Time of the Defendant's Motion came before me, I
11/14/2000		was not made aware that he sought to waive the cost that would be
11/14/2000		assessed against him by G.L.C. 22E sec. 4 (6). Satisfied that the
11/14/2000		Defendant is indigent, as Defined by G.L.C. 261 sec. 27A, His motion
11/14/2000		is Allowed and the cost of preparing, Collecting and Processing the
11/14/2000		DNA Sample. The Defendant must Provide shall be paid by the
11/14/2000		Commonwealth, all Waived. (Rup, J.)
12/12/2000	80	Commonwealth's Motion to File Late Filed Copy to Judge Brady.
12/12/2000	81	Commonwealth's Opposition to Defendnant's September, 2000 New Trial
12/12/2000	81	Motion Filed Copy to Brady, J.
12/28/2000		Motion #76 : The issue presented by the Defendant does not require an
12/28/2000		evidentiary hearing. When Counsel for Defendant has been appointed
12/28/2000		he/she and the prosecution shall contact me to schedule a
12/28/2000		non-evidentiary hearing (Brady,J.)
12/28/2000		Motion (P#77) Upon Review allowed The clerk shall refer the case to
12/28/2000		CPCS for reference to counsel. When Counsel has been appointed he/she
12/28/2000		and the prosecution shall contact me to schedule a non-evidentiary
12/28/2000		hearing (Brady,J.)
01/02/2001	82	Motion by Deft: for Leave to Expand Record
01/02/2001	83	Motion by Deft: for Leave to Reply to the Commonwealth's Memorandum
01/02/2001	83	in Opposition to the Defendant's Motion for New Trial and Memorandum
01/02/2001	83	in Support of filed
01/02/2001	84	Motion by Deft: for the Return of Property filed and ALLOWED
01/02/2001	84	(Borenstein,J.)
01/12/2001	85	Notice of Assignment of Counsel C2624393-2 Jean M Fielding, Esq., for
01/12/2001	85	Screening
02/06/2001		Motion #82 - ALLOWED. (Brady, J.)
02/06/2001		Motion #83 - ALLOWED. (Brady, J.)
02/28/2001	86	Notice of Assignment of Counsel c2624591-4. Greg Shubert, Esq.

02/28/2001	86	Appointed.
03/07/2001	87	Appearance of Counsel - Atty: Greg T Schubert appears for the
03/07/2001	87	Defendant.
04/13/2001	88	Supplement To Defendant's Memorandum Of Law In support Of Motion For
04/13/2001	88	A New Trial - Filed (copies of motion and docket sheets to Judge)
05/25/2001	89	Supplement To Defendant's Memorandum Of Law In Support Of Motion For
05/25/2001	89	A New Trial and docket sheets to Judge Peter Brady.
06/15/2001	90	Habeas corpus for Deft at Norfolk MCI for Monday, June 25, 2001, at
06/15/2001	90	9:00A.M. for Motion for New Trial in Norfolk Superior Court - Ct.
06/15/2001	90	room #3, Judge Patrick Brady's session. Requested by: Shirley Cahill,
06/15/2001	90	District Attoreny's Office. ADA:Appeal Division, Eileen Graydon
06/27/2001	91	Letter from District Attorney's Office Re: Rescheduling
06/27/2001	91	non-evidentiary hearing on defendant's new trial motion - Filed.
07/09/2001	92	Habeas corpus for Deft at Norfolk MCI for July 20, 2001, at 12:00Noon
07/09/2001	92	for Hearing for a Motion for New Trial in Norfolk Superior Ct. - Ct.
07/09/2001	92	Room 3, Judge Patrick Brady's session. Requested by:Shirley Cahill,
07/09/2001	92	District Attorney's Office
07/20/2001	93	Motion Commonwealth's Opposition To Defendant's Supplement To His
07/20/2001	93	Memorandum In Support Of His September 2000 New Trial Motion - Filed
07/20/2001	93	in open Court.
08/07/2001	94	MEMORANDUM & ORDER: On Defendant's September 18, 2000 Motion For A
08/07/2001	94	New Trial - ORDER DENIED (Patrick F.Brady, Justice of the Superior
08/07/2001	94	Court)
08/09/2001	95	Commonwealth files Correspondence letter to Judge Patrick F. Brady.
08/09/2001	95	(copy and docket sheets to Judge Patrick F. Brady)
08/14/2001	96	Motion For Hearing Transcript and Affidavit - Filed.
08/16/2001		Motion #96 - ALLOWED. (Brady, J.) copy sent to Grayson Court Reporter
09/04/2001	97	Defendant's Notice Of Appeal - Filed.
01/16/2002	98	Letter from Defendant Re Appeal -filed.
02/27/2002		Transcript of testimony received 1 volumes dated 7/20/01 from court
02/27/2002		reporter, Grayson, Gayle
03/18/2002	99	Notice of assembly of record; mailed to Appeals Court per Rule 9(d)
04/04/2003	100	Rescript received from Appeals Court; (Memorandum And Order Pursuant
04/04/2003	100	To Rule 1:28) Order denying motion for new trial affirmed.
04/04/2003	100	(Armstrong, CJ., Gelinas & Kantrowitz, JJ.)
04/14/2003	101	Rescript received from Appeals Court; judgment AFFIRMED Order denying
04/14/2003	101	motion for new trial affirmed.(Armstrong, CJ., Gelinas & Kantrowitz,
04/14/2003	101	JJ.)

Charges

6

1 Charges for Docket: ESCR1990-17367

No.	Charge Description:	Indictment:	Status:
1	Murder, 2d degree	ESCR1990-17367	Guilty verdict

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7